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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,233	04/05/2004	Neil Gelfond	02103-551002 / AABOSW19C	7496
26162	7590	05/28/2008	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ZUBAJLO, JENNIFER L	
			ART UNIT	PAPER NUMBER
			2629	
			MAIL DATE	DELIVERY MODE
			05/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/820,233	Applicant(s) GELFOND ET AL.	
	Examiner JENNIFER ZUBAJLO	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) 1-68 and 76-93 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 69-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/25/07 and 1/24/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 69 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support found in the specification as originally filed for newly added limitations “a first control knob configured to control a first aspect of information content on a display” or “provide the user with a set of options to control a second aspect of the information content on the display”.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 69 - 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeroen Cappendijk (Pub. No.: US 2003/0025676 A1) in view of Michael D. Levin (Patent No.: US 6,154,201).

As to claim 69, Cappendijk teaches: control mechanism comprising: a user input area (see [0004], [0015]); a controller (see [0015]); and a proximity detector wherein the proximity detector detects the presence of a user's hand near the user input area and wherein, upon detection of the user's hand near the user input area, the controller is configured to provide the user with a set of options to control a second aspect of the information content on the display (see [0007], [0017]-[0019]).

Cappendijk doesn't directly teach a first control knob configured to control a first aspect of information content on a display.

Levin teaches a first control knob configured to control a first aspect of information content on a display (see Abstract, figure 1, and column 2 lines 15-20).

It would have been obvious to one skilled in the art at the time the invention was made to have been motivated to incorporate the control knob configured to control a first aspect of the information content on a display taught by Levin into the controller and proximity detector used to control information content of the display taught by Cappendijk (note that it would be obvious to replace the control buttons taught by Levin with the interface taught by Cappendijk) in order to provide a dynamic user interface with efficient use of the display screen allowing for a larger screen since less outer buttons would be needed creating a more user friendly device.

As to claim 70, the combination of Cappendijk and Levin teach the control mechanism of claim 69 (see above rejection). Cappendijk also teaches wherein the information content comprises a set of at least one menu option (see [0006], [0007], and [0017]-[0019]).

As to claim 71, the combination of Cappendijk and Levin teach the control mechanism of claim 69 (see above rejection). Cappendijk also teaches the controller is configured to change the information content of a multi-media device employed in a vehicle (see [0020]). Levin also teaches the controller is configured to change the information content of a multi-media device employed in a vehicle (see column 4 lines 17-48).

As to claim 72, the combination of Cappendijk and Levin teach the control mechanism of claim 69 (see above rejection). Cappendijk also teaches the controller configured to, based upon detection of the presence of a user's hand proximate to the control mechanism, increase the information content displayed (see [0019]).

As to claim 73, the combination of Cappendijk and Levin teach the control mechanism of claim 69 (see above rejection). Cappendijk also teaches the controller configured to, based upon an absence of detection of the presence of a user's hand

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proximate to the control mechanism, decrease the information content displayed (see [0019]).

5. Claims 74 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeroen Cappendijk (Pub. No.: US 2003/0025676 A1) in view of Michael D. Levin (Patent No.: US 6,154,201), further in view of Tim Schnell (Patent No.: US 6,768,868 B1).

As to claim 74, the combination of Cappendijk and Levin teach the control mechanism of claim 69 (see above rejection). Cappendijk also teaches the proximity sensor further comprising a transmitter and receiver (see claim 1 and 8). It is well known for a transmitter and receiver to be involved when transmitting signals.

The combination of Cappendijk and Levin doesn't teach the proximity sensor wherein in addition to sensing a signal indicating proximity of the user's hand to the control mechanism, detects a signal transmitted by a remote control.

Schnell teaches the proximity sensor wherein in addition to sensing a signal indicating proximity of the user's hand to the control mechanism, the receiver detects a signal transmitted by a remote control (see column 3 lines 59-65, column 4 lines 28-31 & lines 35-38, column 5 column 5 lines 44-50).

It would have been obvious to one skill in the art at the time of the invention was made to have been motivated to incorporate the sensor, controller, and remote control taught by Schnell into the control mechanism taught by the combination of Cappendijk

and Levin because it would allow the device to be more user friendly by allowing the user to choose between 2 different methods of control.

As to claim 75, the combination of Cappendijk, Levin, and Schnell teach the limitations as described in the rejection of claim 74. Schnell also teaches when the signal indicating proximity of the user's hand and the signal transmitted by the remote control are modulated according to different modulation schemes, the receiver distinguishes between the signal indicating proximity of the user's hand and the signal transmitted by the remote control by identifying one of the modulation and coding of both signals (see column 4 lines 35-38 & column 5 lines 44-50).

Response to Arguments

6. Applicant's arguments with respect to claims 69-75 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Pub. No.: US 2003/0018428.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER ZUBAJLO whose telephone number is (571)270-1551. The examiner can normally be reached on Monday-Friday, 8 am - 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on (571) 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer Zubajlo/
5/20/08

/Amare Mengistu/

Supervisory Patent Examiner, Art Unit 2629